

REMARKS

In response to the Restriction Requirement mailed November 27, 2006, Applicant provisionally elects, with traverse, the invention of claims 1-42, 55-56 and 69 (Group I), directed to methods of assaying an enzyme-mediated luminescence reaction which employ at least one quench reagent, e.g., at least one selective quench reagent. With regard to the election of a specie from 1) a quenching agent for a first or second enzyme-mediated luminescence reaction, 2) a type of enzyme which mediates a first luminescence reaction, and 3) a type of enzyme which mediates a second luminescence reaction, Applicant provisionally elects, with traverse, 1) a sequestering agent that is a nonionic detergent, 2) a first luciferase-mediated luminescence reaction that is a *Renilla reniformis* luciferase-mediated luminescence reaction, and 3) a second luciferase-mediated luminescence reaction that is a *Photinus pyralis* luciferase-mediated luminescence reaction. Applicant believes claims 1-42, 55-56, and 69 read on the elected specie a sequestering agent that is a nonionic detergent. Applicant believes claims 1-24, 29-42, 55-56, and 69 read on the elected specie a first enzyme-mediated luminescence reaction that is a *Renilla reniformis* luciferase-mediated luminescence reaction. Applicant believes claims 1-19, 22-28, 33-42, 55-56, and 69 read on the elected specie a second enzyme-mediated luminescence reaction that is a *Photinus pyralis*-mediated luminescence reaction. Reconsideration and withdrawal of the Restriction Requirement and the election of species, in view of the remarks below, is respectfully requested.

The Restriction Requirement is traversed on the basis that the inventions are closely related. That is, claims directed to methods of assaying an enzyme-mediated luminescence reaction which employ at least one quench reagent for a luminescence reaction (claims 1-42, 55-56 and 69; Group I) are related to claims directed to kits having selective quench reagents for a luminescence reaction (claims 43-54 and 63-68; Group II).

The Restriction Requirement is also traversed on the basis that Restriction Requirements are optional in all cases. M.P.E.P. § 803. If the search and examination of at least a portion of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions. M.P.E.P. § 803. Moreover, it is submitted that Applicant should not be required to incur the

additional costs associated with the filing of multiple divisional applications in order to obtain protection for the claimed subject matter. Due to the relatedness of the subject matter of at least the claims in Group I and Group II as discussed above, those Groups can be efficiently and effectively searched in a single search with no additional burden placed on the Examiner.

Thus, the Restriction Requirement is properly traversed. Accordingly, reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

The requirement to elect species is traversed on the basis that the disclosed species have a disclosed relationship. The disclosed relationship for the first elected specie is that the sequestering agent, the colored compound and the substrate analog inhibitor are selective quench agents for luminescence reactions, and that the nonionic detergent, crown ether, glycol and cyclodextrin are sequestering agents. The disclosed relationship for first and second enzyme-mediated reactions is that they are all luminescence reactions. Therefore, withdrawal of the species elections is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6959 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ERIKA HAWKINS ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

Minneapolis, MN 55402

(612) 373-6959

Date

January 29, 2007

By

Janet E. Embretson

Reg. No. 39,665

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29th day of January 2007.

Name

Dawn M. Pate

Signature

Dawn M. Pate